

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

RICHARD C. CHURCH, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 5:19-cv-00838

SHAWN SPENCE,
GARY SIMS, and
DR. MARK SWANSON

Defendants.

ORDER

Pending are Plaintiff's Application to Proceed Without Prepayment of Fees and Costs [Doc. 1], filed on November 25, 2019, and Plaintiff's Complaints [Docs. 3, 9], filed November 25, 2019, and February 8, 2021, respectively. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on April 9, 2021. Magistrate Judge Aboulhosn recommended that the Court deny Plaintiff's Motion to Proceed Without Prepayment of Fees and Costs, [Doc. 1], and dismiss Plaintiff's Complaints, [Docs. 3, 9], based on the finding that this Court lacks subject matter jurisdiction.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*") (emphasis

added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on April 26, 2021. No specific objections were filed. Inasmuch as Plaintiff filed general objections requesting his case continue, the Court finds that this objection is without merit as it does not direct the Court to any specific error in the PF&R. Furthermore, Plaintiff requests additional time to find an attorney. Previously, the only attempt Plaintiff made to contact an attorney is that he wrote a letter to one law firm. [Doc. 3 at 6]. His amended complaint simply states he "[has] no access to attorney's [sic]." [Doc. 9 at 6]. The Court **DENIES** the objection inasmuch as he offers no forecast respecting when and how obtaining counsel will take place, nor has he shared the additional diligent efforts, if any, that he has undertaken in that regard heretofore.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 10**], **DENIES** Plaintiff's Application to Proceed without Prepayment of Fees and Costs [**Doc. 1**], and **DISMISSES** the Plaintiff's Complaints [**Docs. 3, 9**] and the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: August 23, 2021



Frank W. Volk

Frank W. Volk
United States District Judge